

time for a local government to impose the conditions is when the density entitlements are being granted (now). It is likely that later, the developer will claim that the local government has waived the right to impose subsequent conditions. So when the actual development proposal comes in for Tract J and determination can be made as to what conditions should be imposed, the County, neighborhood, and possibly the CDD will be at a disadvantage.

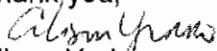
We are also concerned about the potential issues that could arise due to adding multi-family in a senior retirement community that is in compliance with the Fair Housing Act (FHA Act) exemption for housing for older persons. There are no adequate assurances that the developer of this new multi-family housing will not seek subsequent amendments to the DRI for waivers of the senior retirement community and related housing exemptions.

(4) To the extent that the proposal calls for granting approvals that are not consistent with the requirements of the county code or state statute, the developer is asking Sumter County to act beyond the scope of its legal authority. Under Florida law, governmental officials are not entitled to rely on protections under sovereign immunity when acting outside the course and scope of their legal authority (ultra vires acts).

(5) Finally, there is no basis to extend the build out date or expiration date of the DRI. The build out date for this project expired in December 31, 2018, almost 2 years ago. Both the Buffalo Ridge parcel and Tract J are not only already developed, but the Tract J parcel has had the recreational facilities and buildings demolished. The developer now asking to start over with redevelopment. There is no rational basis to grant any extension to the already expired build out date, and piggyback on that by asking for an extension to the DRI expiration date. Also, section FS 380.06(7) (b) states that changes to a build out date or expiration date "may also extend any required mitigation", which could frustrate efforts to timely complete previously required proportionate share or other similar prior Developer requirements.

We appreciate your attention to these issues and your denial of the proposed amendment to the Tri-Villages DRI.

Thank you,


Alison Yurko
Alison Yurko, P.A.

cc: Jennifer Ray, County Attorney
Karl Holly, Sumter County Planning Official
Bradley Arnold, Sumter County Administrator